IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL REVISION APPLICATION No.485 of 2007

Union of India ..Applicant.

Vs.

Rajesh Kishore Mehta.
State of Maharashtra ..Respondents.

Mr Gul Ashani, Advocate for the Applicant.

Mr Mahesh Jethmalani i/b Hariyani & Co. for the Respondent No.1

Mr Rajesh More, A.P.P.for the Respondent No.2-State of Maharashtra.

CORAM: V. C. DAGA,J.
DATED: 8. 10. 2007

P.C.:-

1. Rule, returnable forthwith. Perused application.

2. The Learned Senior Counsel appearing for the respondent No. 1 waives service on behalf of his client. Mr Rajesh More, A.P.P. waives service for the Respondent No.2 - State of Maharashtra.

3. Mr Jethmalani, learned Senior Counsel appearing for the respondent no.1 makes a statement that Advocate on record shall file V.P. as soon as their client (i.e. the respondent no.1) lands in Bombay. In the

meanwhile, they be permitted to file their of appearance. Order accordingly.

4. Heard finally by consent of parties. Learned counsel for the applicant-C.B.I., learned counsel for the Respondent No.1 and learned A.P.P. for the Respondent No.2 made their respective submissions.

5. This revision is directed against the order dated 22.8.2007 passed in Notice Case No.237/N/2007 together with the Court case No. 134/CPW/2006.

6. During the course of hearing, learned counsel for the applicant-C.B.I. brought to my notice opening five lines of para 4 of the earlier order of this Court dated 18.6.2007 passed in Criminal Writ Petition No. 647 of 2007 reading as under:-

> "Learned senior counsel for the petitioner makes a statement and gives an undertaking on behalf of the petitioner that the petitioner shall appear before the Additional Chief Metropolitan Magistrate, 19th Court, Esplande, Mumbai, in the above referred Criminal case No.134/CPW/2006 and seek cancellation/revocation of the arrest warrant."

7. In view of the above undertaking, learned counsel for the C.B.I. contends that Court below tried to overreach the order of the High Court and exhibited gross impropriety.

8. Considering the above submission, Mr Jethmalani, learned Senior Counsel fairly stated that by consent of parties without examining merits or demerits of the order impugned and dispensing with the reasons in support of this order, it may be set aside and application seeking cancellation of the non-bailable warrant be revived and restored to file of the learned Additional Chief Metropolitan Magistrate for being decided on its own merits after compliance of the undertaking given by the respondent No.1 to this Court, allowing the order passed in Writ Petition No. 647 of 2007 to hold the field.

9. Learned counsel for the applicant has no objection to follow the course suggested by Mr Jethmalani.

10. In the result, impugned order dated 22.8.2007 passed by learned Additional Chief Metropolitan Magistrate, Court No. 19,

Esplande, Mumbai in Notice Case No. 237/N/2007 is set aside, dispensing with reasons in support of this order, by consent of parties.

11. In the above view of the matter, it would be open for the respondent no.1 to appear before the Additional Chief Metropolitan Magistrate, 19th Court, Mumbai pursuant to his undertaking given to this Court as indicated hereinabove,and, thereafter, it would be open for the said Court below to pass an appropriate reasoned order on its own merit following principles of natural justice. Needless to mention that all rival contentions on merits are kept open.

12. The revision application stands disposed of accordingly with no order as to costs.

13. Parties to act on an authenticated copy of this order.

(V.C. DAGA,J.)